

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17469 of 2004

Between:

MR. MUPPIDI MALLAMMA W/O. PEDDA PYDAIAH
Rambilli Mandal, Visakhapatnam District.

..... PETITIONER

AND

- 1 Spl. Economic Zone-Land Acquisition Officer, Spl. Officer, Visakhapatnam.
- 2 Mandal Revenue Officer, Rambili Mandal, Visakhapatnam District.
- 3 Muppidi Nookalu S/o. Nookalu
Madiga R/o. Moturupalem Village, Rambilli Mandal, Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction in the nature of Mandamus directing the 1st respondent not to pass award and pay compensation in respect of Ac. 1.00 of Land out of Ac. 5.84 cents, situated in Sy.No. 213/6, situated in Moturupalem village, Rambilli Mandal, Visakhapatnam District in favour of the 3rd respondent.

Counsel for the Petitioner:MR.E.V.BHAGIRATHA RAO

Counsel for the Respondent No.: GP FOR LAND ACQUISITION

The Court at the stage of admission made the following ORDER :

Petitioner states that after death of her husband, late Pedda Pydaiah, who got Ac.1.00 of land towards his share out of the joint family property of Ac.5.84 cents situated in survey No. 213/6, Moturupalem, the third respondent is looking after the affairs of the joint family and he obtained pattedar pass book in respect of the entire extent of land. Petitioner made an application to the District Collector, Visakhapatnam and the second respondent requesting that a separate pattedar pass book be issued in her name in respect of Ac.1.00 of land and the same are pending consideration. In the meanwhile, the first respondent initiated proceedings under the Land Acquisition Act, 1894 (for short 'the Act') by issuing notification under Section 4(1) and has taken possession of the entire extent of land and that the matter is at the stage of passing the award in favour of the third respondent. The petitioner made a representation to the first respondent on 30.08.2004, narrating the entire facts and her entitlement to compensation to the extent of Ac.1.00 of land. But, so far, no action has been taken in that regard. Hence, the petitioner approached this Court by filing the writ petition seeking mandamus directing the first respondent not to pass award and pay compensation in respect of Ac.1.00 of land in favour of the third respondent.

Heard learned counsel for the petitioner and learned Government Pleader for Land Acquisition.

It is well settled that when the rival claims are made claiming compensation,

the Land Acquisition Officer, while passing the Award, can refer the matter to the civil Court under Section 30 of the Land Acquisition Act, by depositing the compensation into the Court. In view of the same, I do not see any grounds to restrain the first respondent from passing the Award, but he has to follow the procedure contemplated under the Act. The writ petition is accordingly dismissed.

29.09.2004

ksld

To

- 1 The Special Officer, Spl. Economic Zone-Land Acquisition Officer,
Visakhapatnam.
- 2 Mandal Revenue Officer, Rambili Mandal, Visakhapatnam District.
- 3 Two CCs to the Govt.Pleader for Land Acquisition, High Court of A.P.,
Hyderabad (OUT).
- 4 Two CD copies.